

Opinion of the Court.

NATIONAL ACCIDENT SOCIETY v. SPIRO.

CERTIFICATE FROM THE CIRCUIT COURT OF APPEALS FOR THE
SIXTH CIRCUIT.

No. 460. Submitted April 27, 1896. — Decided November 30, 1896.

A defendant, by filing a petition in a state court for removal of the cause to the United States court, in general terms, unaccompanied by a plea in abatement, and without specifying or restricting the purpose of his appearance, does not thereby waive objection to the jurisdiction of the court for want of sufficient service of the summons.

THE case is stated in the opinion.

Mr. H. D. McBurney for plaintiff in error.

Mr. Henry H. Ingersoll for defendant in error.

THE CHIEF JUSTICE: This is a certificate from the Circuit Court of Appeals for the Sixth Circuit, propounding, after a preliminary statement, the following question:

“Does a defendant by filing a petition in a state court for removal of the cause to the United States court, in general terms, unaccompanied by a plea in abatement, and without specifying or restricting the purpose of his appearance, thereby waive objection to the jurisdiction of the court for want of sufficient service of the summons?”

For the reasons given and on the authorities cited in the case of *Wabash Western Railway v. Brown*, ante, 271, the question must be answered in the negative.

Certificate accordingly.

MR. JUSTICE BREWER and MR. JUSTICE PECKHAM dissented.

Opinion of the Court.

UNITED STATES *v.* DELANEY.

APPEAL FROM THE COURT OF CLAIMS.

No. 493. Submitted November 3, 1896.—Decided November 30, 1896.

Doing that which it is necessary to do, in order that a newly created land office may be in a proper and fit condition at the time appointed for opening it for public business, is a part of the official duties of the person who is appointed its register and receiver.

The claimant having entered on the performance of such duties at a new office in Oklahoma on the 18th of July, 1890, and having been engaged in performing them, in the manner described by the court in its opinion, from thence to the 1st of September following, when the office was opened for the transaction of public business, is entitled to compensation as register and receiver during that period.

THE case is stated in the opinion.

Mr. Assistant Attorney General Dodge and *Mr. Assistant Attorney Gorman* for appellants.

Mr. W. W. Dudley, Mr. L. T. Michener, Mr. John C. Chaney and *Mr. J. R. Garrison* for appellee.

MR. JUSTICE PECKHAM delivered the opinion of the court.

This is an appeal from the Court of Claims. It involves simply the question as to the right of the appellee to compensation as register and receiver of the land office at the city of Oklahoma, in the Territory of Oklahoma, from the 18th of July to the 1st of September, 1890.

It appears from the findings of fact by the Court of Claims that the land office at Oklahoma city was first established by an executive order of the President on the 6th of June, 1890. The appellee, John C. Delaney, was duly appointed and commissioned as receiver of public moneys at Oklahoma city on the 23d of June, 1890, and on the 7th of July, 1890, he qualified by taking the oath of office and giving the bond required by law. On the 10th of July, 1890, the claimant was verbally directed by the Commissioner of the General Land Office to